

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 02-3611

United States of America,

Appellee,

v.

Tommie Webb,

Appellant.

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Appeal from the United States
District Court for the
Eastern District of Missouri.
[UNPUBLISHED]

Submitted: June 26, 2003

Filed: July 1, 2003

Before LOKEN, Chief Judge, BOWMAN, and WOLLMAN, Circuit Judges.

PER CURIAM.

A jury convicted Tommie Webb of possessing with intent to distribute more than 5 grams of a mixture or substance containing cocaine base, in violation of 21 U.S.C. § 841(a)(1) (count 1); carrying or possessing a firearm in furtherance of the drug trafficking alleged in count 1, in violation of 18 U.S.C. § 924(c) (count 2); and being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g) (count 3). The district court¹ imposed concurrent sentences of 262 and 120 months of

¹The Honorable Jean C. Hamilton, United States District Judge for the Eastern District of Missouri.

imprisonment on counts 1 and 3 respectively, and a consecutive sentence of 60 months of imprisonment on count 2. The court ordered that the sentences be followed by concurrent periods of 5 years of supervised release on count 1, and 3 years on counts 2 and 3. Webb appeals, and his counsel has moved to withdraw. In a brief filed under Anders v. California, 386 U.S. 738 (1967), counsel argues that Webb's sentence violates the Eighth Amendment's proscription against cruel and unusual punishment. Webb has not filed a pro se supplemental brief.

We reject counsel's argument and conclude that Webb's sentence, required by the Guidelines and section 924(c)'s mandatory 5-year consecutive sentence, does not violate the Eighth Amendment. See 18 U.S.C. § 924(c); United States v. Farmer, 73 F.3d 836, 840 (8th Cir.), cert. denied, 518 U.S. 1028 (1996); United States v. Knight, 96 F.3d 307, 311 (8th Cir. 1996), cert. denied, 520 U.S. 1180 (1997). Further, having reviewed the record under Penon v. Ohio, 488 U.S. 75, 88 (1988), we find no nonfrivolous issues.

Accordingly, counsel's motion to withdraw is granted, and the judgment is affirmed.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.